

REMARKS

This is a full and timely response to the non-final Office Action mailed November 15, 2005. Claims 1 – 21 are pending. Specifically, claims 1 and 7 have been amended and claims 11 – 21 have been added. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Claims 1 - 10 are Patentable Over *Benveniste*

The Office Action rejects claims 1 – 10 under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Publication No. 2002/016933 to Benveniste (“*Benveniste*”). For at least the reasons set forth below, the rejection should be withdrawn and the claims allowed.

Benveniste was filed November 2, 2001, after the August 31, 2001 filing date of the instant application. However, *Benveniste* apparently enjoys several presumptive effective filing dates based upon a number of respective provisional applications from which *Benveniste* claims benefit. The provisional applications from which *Benveniste* claims benefit are listed in the table below in the order of their respective filing date:

Filing Date	Serial Number
11-03-2000	60/245,186 (the ‘186 provisional application)
11-17-2000	60/249,254 (the ‘254 provisional application)
12-12-2000	60/254,544 (the ‘544 provisional application)
12-19-2000	60/256,337 (the ‘337 provisional application)
12-27-2000	60/257,983 (the ‘983 provisional application)
03-27-2001	60/278,744 (the ‘744 provisional application)

(U.S.P.T.O. Public Pair; Continuity Data). Without acquiescing that the alleged disclosure of claims 1 – 10 is supported by *Benveniste* itself, or any of the provisional applications listed in the table above, Applicant submits that the invention pre-dates the effective filing date of *Benveniste*. Namely, for the purposes of 102(e), the earliest effective filing date relied upon by the Office Action is apparently November 3, 2000.

Applicant submits that Applicant conceived of the invention prior to November 3, 2000 and worked diligently to reduce the claimed invention to actual practice. In this regard, Applicant includes herewith the declaration of Maarten Menzo Wentink pursuant to 37 C.F.R. § 1.131, attesting that the invention was conceived prior to November 3, 2000, and thereafter, the invention was diligently reduced to practice.

The declaration of Maarten Menzo Wentink shows such conception, diligence, and completion of the invention of the subject matter of the claim(s) under rejection as further evidenced by the attached Exhibits A - F. *See, MPEP 715.04 and In re Carlson*, 79 F.2d 900, 27 USPQ 400 (CCPA 1935). Therefore, *Benveniste* can not be used to form a rejection of claims 1 - 10 under 102(e).

Accordingly, Applicant respectfully submits that the rejections of claims 1 - 10 should be withdrawn.

II. Prior Art Made of Record

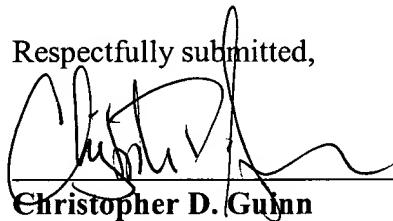
The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

The Applicant respectfully submits that all claims are now in condition for allowance, and request that the Examiner pass this application to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher D. Gunn", is written over a horizontal line.

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